

Lennan, Hume, Paulus, Watson, Kauffman, Meachum.

TWELFTH DAY.

Senate Chamber,
Austin, Texas,

Thursday, September 1, 1910.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum being present, the following Senators answering to their names:

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Ratliff.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Kauffman.	Terrell of Wise.
Kellie.	Veale.
Mayfield.	Ward.
Meachum.	Watson.
Murray.	Weinert.

Absent.

Hume. Willacy.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending reading of the Journal of yesterday, on motion of Senator Kellie, the same was dispensed with.

(See Appendix for petitions, memorials and committee reports.)

The Chair called the regular order of business, and there being no business under this head, the Chair declared the morning call concluded.

EXCUSED.

For non-attendance on account of important business:

Senator Sturgeon for Monday and Tuesday, on motion of Senator Weinert.

SENATE BILL NO. 10.

The Chair laid before the Senate, as pending business,

Senate bill No. 10, A bill to be entitled "An Act to establish a prison system, and declaring the policy of the State with reference thereto; to provide for

the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to abolish the leasing and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to provide for a Board of Prison Commissioners; to provide for their appointment, and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commission; to vest title of all real estate owned by the prison system; to authorize the prison system to borrow money from the permanent school fund; to provide for the appointment of an auditor, and prescribe his duties; prescribing penalties for the violation of this act; repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8 of Title 79 of the Revised Statutes of 1895, and all laws and parts of laws in conflict with this act; making an appropriation to carry out the provisions of this act."

The question being on the engrossment of the bill,

Senator Terrell of McLennan moved that the Senate go into a Committee of the Whole for further consideration of the bill.

Senator Hudspeth moved to table the motion, which motion to table prevailed by the following vote:

Yeas—19.

Alexander.	Peeler.
Cofer.	Ratliff.
Greer.	Real.
Harper.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of Wise.
Mayfield.	Veale.
Meachum.	Ward.
Murray.	Weinert.
Paulus.	

Nays—7.

Adams.	Senter.
Bryan.	Terrell of McLennan.
Kellie.	Watson.
Perkins.	

Absent.

Brachfield.	Kauffman.
Hume.	Willacy.

Pending discussion, Senator Meachum then moved that the vote by which the Senate refused to go into a Committee of the Whole be reconsidered.

The motion prevailed.

Senator Hudspeth then moved that the

Senate go into the Committee of the Whole to further consider the bill.

The motion prevailed.

IN THE SENATE.

(Lieutenant Governor Davidson presiding.)

On motion of Senator Meachum, the Senate was at ease for ten minutes.

The Senate was again called to order by Lieutenant Governor Davidson.

SENATE BILL NO. 10—REPORT OF COMMITTEE OF THE WHOLE.

Austin, Texas, September 1, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee of the Whole on Senate bill No. 10 beg leave to report progress as follows:

The following amendments were adopted:

Amend Section 1, page 1, line 31, by striking out the following word, "and" and inserting "and training" after the word "encouragement" in same line.

TERRELL of Wise.
RATLIFF.

Amend the bill by striking out the word "may" wherever it appears in line 30, Section 1, page 1, of the bill and insert in lieu thereof the word "shall."

VEALE.

Amend the bill by inserting after the word "are," in line 3, Section 2, page 2, of the bill the following words: "or may be."

VEALE.

Amend the bill, line 3, page 2, by inserting between the word "where" and the word "prisoner" the word "State."

MEACHUM.

Amend Section 3, line 8, page 2, by striking out the word "but" and inserting the word "and" at the beginning of said line.

RATLIFF.

The following amendment and substitute to the amendment to Section No. 4 have been considered and were pending when the committee arose:

Amend the bill by striking out Section 4 and substituting the following:

"To better carry out such policy, the management and control of the prison

system of the State of Texas shall be vested in a board to be known as the Board of Prison Commissioners, and for the purposes of this act shall be referred to as the Prison Commission. Said Board of Prison Commissioners shall be composed of three men to be selected by the Governor, the Chief Justice of the Supreme Court and the presiding Judge of the Court of Criminal Appeals of the State of Texas, whose term of office shall be two years from date of appointment, except those first appointed under this act, who shall hold their offices severally for eight, sixteen and twenty-four months from the date of their appointment and qualification. In the appointment of said commissioners first to be appointed under this act, the appointing board shall designate the term each one shall hold under such appointment; provided, however, that in the event a change in the Constitution extending the term of office of the Prison Commissioners, then the members of said Board of Prison Commissioners then in office shall adjust their terms of office by lot or in conformance with the provisions of such constitutional amendments without the necessity of further legislative enactment; provided further, that in selecting the members of said Penitentiary Commission said appointing board shall always appoint two members of said commission from the dominant political party, and shall appoint one member of said commission from the political party which at the next preceding general election polled the next greatest number of votes for Governor."

REAL,
ALEXANDER.

Amend the bill, Section 4, line 10, by adding after the word "Governor" the following:

"From out of twelve names, to be agreed upon and submitted to the Governor by the Chief Justice of the Supreme Court of Texas, Presiding Judge of the Court of Criminal Appeals of Texas and the State Treasurer of the State of Texas, whose term shall expire the expiration of the term of office of the Governor who appointed said commission."

Amend further by striking out all of Section 4 after the word "Senate," in line 11 of said section on page 54 of the bill as printed in the Journal of the Senate on August 27, 1910, and by adding at the end of said section as amended the following:

"And each Governor hereafter elected

shall immediately upon being inducted into office, make said appointments as herein provided for, who shall hold their office for the term of two years, unless otherwise provided by law."

WATSON.

The following amendment and amendment to the amendment and substitute for the amendment and amendment to the amendment to Section 15 have been considered, and were pending when the committee arose:

AMENDMENT NO. 7.

Amend the bill by striking out Section 15 and inserting in lieu thereof the following:

The sum of \$200,000, or so much thereof as may be necessary, be appropriated out of the State Treasury, to be used in the erection of such prison houses and improvements upon the lands now owned by the State, and hereafter to be purchased by the Prison Commission for the penitentiaries."

HOLSEY,
WARD.

Amend the amendment offered by the Senator from Navarro by striking out the words and figures "\$200,000" and inserting in lieu thereof the words and figures "five hundred thousand dollars (\$500,000)."

WEINERT.

AMENDMENT NO. 8.

Substitute for the amendment and the amendment to the amendment to Section 15:

"There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of five hundred thousand dollars, or so much thereof as may be necessary, for the fiscal year beginning September 1, 1910, for the purpose of carrying out the provisions of this act. Such sum hereby appropriated shall be under control and at the disposal of the Prison Commission, as provided in this act."

ALEXANDER,
WEINERT,
HUDSPETH.

The committee recommends the adoption of this report, and that the committee be discharged.

SENTER, Chairman.

After the above report was read, action recurred on same, and

Senator Weinert moved that that part

of the report which reported adoption of amendments to Sections 1, 2 and 3 of the bill be adopted.

The motion prevailed.

Senator Terrell of Bowie moved that that part of the report which recommended that the Senate consider the pending amendments be adopted.

The motion prevailed.

Senator Weinert moved that the pending amendments be considered in the order in which they come in the report, which motion was adopted.

Senator Weinert then moved that the amendment and substitute for same which were pending to Section 4 be laid on the table, subject to call (see amendment No. 6).

The motion prevailed.

Action then recurred on the amendment to Section 15 of the bill (amendment No. 7 in the report), and the amendment to the amendment and the substitute for both the amendment and the amendment to the amendment.

Senator Weinert, by unanimous consent, withdrew the amendment to the amendment No. 7, and

Senator Holsey, by unanimous consent, withdrew the amendment No. 7, which was an amendment to Section 15 of the bill.

The substitute for the pending amendments become the amendment, which is shown in the above report as amendment No. 8, and action recurred on same.

Senator Ward then offered the following amendment to the amendment:

Amend the amendment to Section 15 by striking out the words "five hundred thousand dollars" and insert in lieu thereof the words "two hundred and fifty thousand dollars."

WARD,
HOLSEY,
TERRELL of Wise,
BRYAN.

(Senator Brachfield in the chair.)

RECESS.

At 12:30 o'clock p. m., on motion of Senator Terrell of Bowie, the Senate recessed until 2:30 o'clock today.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

SENATE BILL NO. 10.

Action recurred on Senate bill No. 10, the question being on the amendment by Senator Ward to the amendment by Senator Alexander et al.

Pending discussion, Senator Ward, with the consent of the other signers, withdrew his amendment to the amendment.

Action then recurred on the amendment by Senator Alexander et al., and the same was changed to read as follows:

Amend the bill by striking out Section 15 and inserting the following:

"Section 15. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of five hundred thousand dollars, or so much thereof as may be necessary, for the fiscal year beginning September 1, 1910, for the purpose of carrying out the provisions of this act. Such sum hereby appropriated shall be under control and at the disposal of the Prison Commission, as provided in this act; provided, that not more than \$200,000 of the amount herein appropriated shall be expended prior to February 1, 1911."

ALEXANDER,
WEINERT,
HUDSPETH,
WARD,
HOLSEY,
TERRELL of Wise.

The amendment, as changed, was read and adopted by the following vote:

Yeas—23.

Adams.	Perkins.
Alexander.	Ratliff.
Brachfield.	Real.
Harper.	Senter.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Kauffman.	Terrell of Wise.
Kellie.	Veale.
Mayfield.	Ward.
Meachum.	Watson.
Paulus.	Weinert.
Peefer.	

Nays—4.

Bryan.	Greer.
Cofer.	Sturgeon.

Present—Not Voting.

Murray.

Absent.

Hume. Willacy.

Senator Weinert then called up the amendment to Section 4 of the bill and the substitute therefor, said amendment and substitute being on the table subject to call. (See amendment No. 6, contained in the report of the Committee of the Whole.)

The amendment and substitute were read, and

Senator Weinert moved to table both the amendment and the substitute.

Senator Watson called for a division of the question.

Pending discussion, the motion to table was withdrawn, and

Senator Watson withdrew the substitute for the pending amendment to Section 4.

Senator Murray offered the following substitute for the pending amendment to Section 4:

Substitute by striking out all after the word "act," in line 26, down to and including the word "provided," in line 31, and insert in lieu thereof the following: "whose term of office shall expire on the 20th of January, 1911."

The substitute was read and adopted by the following vote:

Yeas—18.

Adams.	Peeler.
Brachfield.	Perkins.
Harper.	Senter.
Hudspeth.	Terrell of Bowie.
Kauffman.	Terrell of McLennan.
Kellie.	Terrell of Wise.
Meachum.	Ward.
Murray.	Watson.
Paulus.	Weinert.

Nays—9.

Alexander.	Ratliff.
Bryan.	Real.
Greer.	Sturgeon.
Holsey.	Veale.
Mayfield.	

Absent.

Willacy.

PAIRED.

Senator Cofer (present), who would vote "nay," and Senator Hume (absent), who would vote "yea."

The amendment, as substituted, was then adopted.

Senator Weinert offered the following amendment:

Add at the end of Section 4 the following: "Said Commissioners shall be citizens of this State, and practical business men; two of them shall be members of the dominating political party, and one

of said members shall be a member of the political party casting the next highest vote for Governor at the last general election preceding such appointment."

WEINERT,
REAL,
ALEXANDER,
PAULUS.

Senator Hudspeth moved to table the amendment, which motion to table was adopted by the following vote:

Yeas—20.

Adams.	Perkins.
Brachfield.	Ratliff.
Cofer.	Senter.
Harper.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Kellie.	Terrell of Wise.
Mayfield.	Veale.
Meachum.	Ward.
Peeler.	Watson.

Nays—8.

Alexander.	Murray.
Bryan.	Paulus.
Greer.	Real.
Kauffman.	Weinert.

Absent.

Hume.	Willacy.
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(Senator Brachfield in the chair.)

Senator Terrell of Bowie offered the following amendment:

Amend the bill by striking out all of Section 58, beginning with the word "prisoners," in line 29, page 24, and insert in lieu thereof the following: "And prisoner or prisoners shall be competent witnesses, and shall be permitted to testify, in any procedure pertaining to such offense, either in making complaint, in examining trials, before the grand jury, or on the final trial thereof; whether such offense be charged to have been committed before this act takes effect or afterwards. And any person who has been convicted of a felony and who has been discharged from the penitentiary, and whose citizenship has not been restored, shall be a competent witness, and shall be permitted to testify either for the State or the defendant in any prosecution against any person who is being prosecuted for any offense against a prisoner; whether such offense be charged to have been committed before the taking effect of this act of since said time."

Pending discussion, Senator Senter offered the following substitute for the above amendment:

Amend the bill, Section 58, lines, 27, 28 and 29, by striking out the words: "provided, that in all cases where any person is charged by complaint or indictment with an offense against a prisoner, prisoners shall be permitted to testify," and insert in lieu thereof the following: "In all cases, civil and criminal, a convict, whether serving term in prison or after such imprisonment shall have terminated, shall be a competent witness, and when so testifying, evidence shall be admissible to show that such witness is or was a convict, and the nature of the offense of which he was convicted."

The substitute was read and adopted by the following vote:

Yeas—20.

Adams.	Perkins.
Bryan.	Ratliff.
Greer.	Real.
Harper.	Senter.
Hudspeth.	Terrell of Bowie.
Kauffman.	Terrell of McLennan.
Kellie.	Terrell of Wise.
Murray.	Ward.
Paulus.	Watson.
Peeler.	Weinert.

Nays—8.

Alexander.	Mayfield.
Brachfield.	Meachum.
Cofer.	Sturgeon.
Holsey.	Veale.

Absent.

Hume.	Willacy.
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The amendment, as substituted, was then adopted by the following vote:

Yeas—20.

Adams.	Perkins.
Bryan.	Ratliff.
Greer.	Real.
Harper.	Senter.
Hudspeth.	Terrell of Bowie.
Kauffman.	Terrell of McLennan.
Kellie.	Terrell of Wise.
Murray.	Ward.
Paulus.	Watson.
Peeler.	Weinert.

Nays—8.

Alexander.	Mayfield.
Brachfield.	Meachum.
Cofer.	Sturgeon.
Holsey.	Veale.

Absent.

Hume.

Willacy.

Senator Sturgeon offered the following amendment, which was read and adopted:

Amend the bill by striking out the following in lines 12 and 13, on page 9, Section 19: "In order to supply any defect in the general laws of this State."

Senator Ward offered the following amendment, which was read and adopted:

Amend the bill by striking out all of Section 39 and insert in lieu thereof the following: "If a female prisoner be received with an infant, or if any child be born in the penitentiary, the child shall be permitted to remain with its mother until three to six years of age, in the discretion of and as prescribed by the Prison Commission."

Senator Weinert offered the following amendment:

Amend the bill by adding after the words "Prison Commission," Section 10, line 8, the following: "And two members of said Board of Prison Commissioners, to be designated by the Governor, shall constitute the Board of Pardon Advisers, who shall perform such duties as are defined in Article 3582a, Title LXXVI, Revised Civil Statutes of Texas, in connection with their other duties as members of the Prison Commission."

WEINERT,
GREER.

On motion of Senator Terrell of McLennan, the amendment was tabled.

Senator Ward offered the following amendment, which was read and adopted:

Amend Section 34 of the bill by striking out the second word in line 7, page 16, and insert the word "prisoners."

Senator Perkins moved that the Senate adjourn until 9 o'clock tomorrow morning, but the motion was lost.

Action then recurred on Senate bill No. 10, and Senator Weinert offered the following amendment:

Amend the bill, Section 16, line 24, by adding after the word "prisoner" the following: "as far as conditions and the welfare of the prisoner demands."

WEINERT,
GREER.

Senator Paulus offered the following substitute for the amendment:

Amend the bill, page 7, Section 16, lines 24 and 25, by striking out the words

"providing a separate cell or room for each prisoner."

PAULUS,
HARPER.

Senator Hudspeth moved to table the substitute, which motion to table prevailed by the following vote:

Yeas—20.

Adams.	Peeler.
Alexander.	Perkins.
Cofer.	Real.
Greer.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Kauffman.	Terrell of Wise.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.

Nays—8.

Brachfield.	Paulus.
Bryan.	Ratliff.
Harper.	Senter.
Murray.	Veale.

Absent.

Hume.

Willacy.

The amendment was then adopted.

Senator Cofer offered the following amendment:

Amend Section 6, page 3, line 22, by striking out the word "three" and inserting in lieu thereof the word "two."

Senator Ratliff offered the following substitute for the amendment:

Amend Section 6, page 3, line 22, by striking out the word "three" and inserting "two hundred and fifty."

RATLIFF,
TERRELL of Wise.

Senator Alexander moved to table the amendment and the substitute, which motion to table prevailed by the following vote:

Yeas—19.

Adams.	Peeler.
Alexander.	Real.
Brachfield.	Senter.
Bryan.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Kauffman.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Murray.	Weinert.
Paulus.	

Nays—9.

Cofer.	Harper.
Greer.	Holsey.

Meachum.
Perkins.
Ratliff.

Sturgeon.
Terrell of Wise.

Absent.

Hume.

Willacy.

Senator Watson offered the following amendment:

Amend the bill, page 19, by striking out all of Section 44 and substituting in lieu thereof the following:

"Section 44. Hereafter, life or long-term prisoners who have actually served fifteen years and have no sustained charge of misconduct and have a good prison record, and who shall be favorably recommended to the Governor, may receive at the hands of the Governor a reasonable commutation of sentence, and if a life sentence is commuted to a term of years, then such convict shall have the benefit of the ordinary commutation as if originally sentenced for a term of years, except the Governor shall otherwise direct; provided, however, that all convicts in this State, who had prior to September 1, 1910, been convicted and confined in the penitentiary of this State for a term of fifteen years or more, and are now so confined shall, upon the taking effect of this act, be paroled by the Board of Prison Commissioners, and shall be allowed to go upon parole outside the buildings and jurisdiction of the penitentiary authorities; provided, however, that the provisions of this act shall apply to all convicts, except those convicted for rape or assault to rape, those convicts who have heretofore been convicted of a felony in this State more than twice; and, provided, further, that should any convict paroled under this act be hereafter convicted in the courts of this State of any felony and sentenced to the penitentiary of this State, that said convict shall forfeit all of the rights of said convict as herein provided for, and shall hereafter be treated as an escaped convict, owing service to the State, and shall be liable, when so convicted, to serve out the unexpired period of time of his sentence originally entered against him, and the time from the date of his parole to the date of his subsequent conviction shall not be counted as any part or portion of the time served."

Senator Veale moved to table the amendment.

RECESS.

Senator Terrell of Wise moved that the Senate adjourn until 10 o'clock tomorrow morning.

Senator Meachum moved, as a substitute, that the Senate recess until 8:15 o'clock today.

Action being on the longest time first, the motion to adjourn until 10 o'clock tomorrow morning was lost by the following vote:

Yeas—10.

Bryan.	Paulus.
Harper.	Peelr.
Holsey.	Ratliff.
Kellie.	Terrell of Wise.
Murray.	Watson.

Nays—18.

Adams.	Perkins.
Alexander.	Real.
Brachfield.	Senter.
Cofer.	Sturgeon.
Greer.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Kauffman.	Veale.
Mayfield.	Ward.
Meachum.	Weinert.

Absent.

Hume. Willacy.

The motion to recess until 8:15 p. m. o'clock today was then adopted.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

SENATE BILL NO. 10.

Action recurred on Senate bill No. 10, the question being on the motion by Senator Veale to table the pending amendment by Senator Watson.

The motion to table was lost by the following vote:

Yeas—12.

Brachfield.	Ratliff.
Greer.	Real.
Harper.	Sturgeon.
Mayfield.	Veale.
Paulus.	Ward.
Perkins.	Weinert.

Nays—12.

Adams.	Kauffman.
Alexander.	Kellie.
Hudspeth.	Murray.

Peeler. Terrell of McLennan.
Senter. Terrell of Wise.
Terrell of Bowie. Watson.

Absent.

Bryan. Willacy.

PAIRED.

Senator Cofer (present), who would vote "yea," with Senator Hume (absent), who would vote "nay."

Senator Meachum (present), who would vote "nay," with Senator Holsey (absent), who would vote "yea."

The vote being a tie, the Chair (Lieutenant Governor Davidson, presiding) voted "nay," and declared the motion lost.

Action recurred on the amendment, and the same was adopted by the following vote:

Yeas—15.

Adams. Peeler.
Alexander. Ratliff.
Greer. Senter.
Hudspeth. Terrell of Bowie.
Kauffman. Terrell of McLennan.
Kellie. Terrell of Wise.
Meachum. Watson.
Murray.

Nays—12.

Brachfield. Perkins.
Bryan. Real.
Harper. Sturgeon.
Holsey. Veale.
Mayfield. Ward.
Paulus. Weinert.

Absent.

Willacy.

PAIRED.

Senator Cofer (present), who would vote "nay," with Senator Hume (absent), who would vote "yea."

Senator Paulus offered the following amendment:

Amend the bill, page 16, line 29, by inserting after the word "prohibited" the following: "except in grade No. 3."

Senator Hudspeth moved to table the amendment, which motion to table was adopted by the following vote:

Yeas—17.

Adams. Meachum.
Alexander. Murray.
Holsey. Peeler.
Hudspeth. Perkins.
Kauffman. Ratliff.
Mayfield. Real.

Senter. Terrell of Wise.
Terrell of Bowie. Weinert.
Terrell of McLennan.

Nays—10.

Brachfield. Kellie.
Bryan. Paulus.
Cofer. Sturgeon.
Greer. Ward.
Harper. Watson.

Present—Not Voting.

Veale.

Absent.

Hume.

Willacy.

Senator Weinert offered the following amendment:

Amend the bill by adding at the end of Section 14 the following:

"Provided, however, that the said Prison Commission shall not acquire for the purposes of this act more than ten thousand acres of land in the same county, and in those counties where the State of Texas now owns lands used by the penitentiary system and commonly known as 'State farms' said Prison Commissioners shall not by purchase or lease increase the total acreage of such farms in any such county to an area not exceeding ten thousand acres."

HUME,
KAUFFMAN.

Senator Hudspeth moved to table the amendment, which motion prevailed by the following vote:

Yeas—21.

Adams. Ratliff.
Brachfield. Real.
Greer. Senter.
Holsey. Sturgeon.
Hudspeth. Terrell of Bowie.
Kellie. Terrell of McLennan.
Mayfield. Terrell of Wise.
Murray. Veale.
Paulus. Ward.
Peeler. Watson.
Perkins.

Nays—6.

Alexander. Kauffman.
Bryan. Meachum.
Harper. Weinert.

Absent.

Willacy.

PAIRED.

Senator Cofer (present), who would vote "yea," with Senator Hume (absent), who would vote "nay."

Senator Weinert offered the following amendment:

Amend the bill by adding at the end of Section 53 the following:

"Provided, however, that no convict who is confined on any farm or camp, now owned by the State of Texas, or hereafter acquired for the purpose of this act, or on any farm or camp under contract with the owner or lessee of such farm or camp at the time he is entitled to discharge, shall be discharged in the county where such farm or camp is situated, unless he was sentenced in such county, but all such convicts shall be discharged in such other county as he may select."

HUME,
KAUFFMAN,
MEACHUM.

(Senator Veale in the chair.)

Senator Hudspeth moved to table the amendment, which motion to table prevailed by the following vote:

Yeas—16.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Real.
Holsey.	Senter.
Hudspeth.	Sturgeon.
Kellie.	Terrell of Bowie.
Mayfield.	Ward.
Murray.	Watson.

Nays—7.

Bryan.	Ratliff.
Harper.	Terrell of McLennan.
Kauffman.	Veale.
Meachum.	

Absent.

Greer.	Weinert.
Perkins.	Willacy.
Terrell of Wise.	

PAIRED.

Senator Cofer (present), who would vote "yea," with Senator Hume (absent), who would vote "nay."

BILLS SIGNED.

The Chair (Lieutenant Governor Davidson) gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

Senate bill No. 11, "An Act to amend

an act entitled 'An Act to authorize Galveston county to build and own the combination roadway and bridge from mainland to Galveston island across Galveston bay, to connect, as part of the roadways of the county on the island and mainland, and the county to issue bonds for same on taxation; also establishing three-mile limit and condemnation proceedings, and providing for the right of way; also to authorize all corporations contracting for right of way upon or use of said structure to issue and sell bonds therefor under the regulation and authority of the Railroad Commission; and to lease and authorize corporations and the city of Galveston to lease right of easement of user of portion of said structure from such county on terms provided by this act and agreed on with the county commissioners court, with an emergency clause,' approved March 16, 1907, being Chapter 26 of the Special Laws passed at the Regular Session of the Thirtieth Legislature, by adding thereto Sections 1a and 1b, authorizing the commissioners court of said county to issue, for the purpose mentioned in said act, bonds of the county bearing interest at a rate not exceeding 6 per cent per annum, and to levy and collect an additional annual ad valorem tax to pay interest and create a sinking fund on said bonds, provided that a majority of the qualified property tax-paying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed 15 cents on the \$100 valuation of property subject to taxation in said county, and providing for the sale of such bonds and for the cancellation or sale of bonds heretofore issued by said commissioners court under said act, and declaring an emergency."

Senate bill No. 6, "An Act to amend Articles 4549 and 4550 of Chapter 11, Title 94, of the Revised Statutes of the State of Texas, and prescribe the conditions upon which the purchaser or purchasers, and associates, if any, of the property and franchises of a railroad company may be come owners of its charter, or may organize a new corporation, and governing, regulating and limiting the stocks and bonds of the new corporation, and of the old corporation, after the sale of its property and franchises, and declaring an emergency."

Senate bill No. 2, "An Act appropriating the sum of seven thousand dollars, or so much thereof as may be necessary, out of the public revenues not otherwise appropriated, to pay the contingent expenses of the Fourth Called Session of

the Thirty-first Legislature of Texas, and declaring an emergency."

Senate bill No. 4, "An Act to require persons and corporations, or receivers, engaged in repairing railroad cars or other railroad equipment, not including locomotives, to erect and maintain buildings for the protection from rain, wind or other inclement weather, employes engaged in repairing railroad cars and other railroad equipment, and providing penalties for the violation of this act, and regulating penalties, and repealing Chapter 53, Acts of the Thirty-first Legislature of the State of Texas, entitled 'An Act to require all railroad companies doing business in this State to provide suitable premises and shelter for the protection from the weather of their employes while engaged in labor in the service of said railroad companies, and declaring an emergency.'"

House bill No. 12, "An Act providing for the assessment and collection of taxes for county purposes only on lands acquired and owned by the State for the purpose of establishing State farms and employing thereon convict labor on State account, and repealing all laws in conflict herewith, and declaring an emergency."

ADJOURNMENT.

On motion of Senator Kellie, the Senate, at 10 o'clock p. m., adjourned until 10 o'clock tomorrow morning.

APPENDIX.

COMMITTEE REPORTS.

Committee Room,

Austin, Texas, September 1, 1910.

Hon. A. B. Davidson, President of the Senate:

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 11, "An Act to amend an act entitled 'An Act to authorize Galveston county to build and own the combination roadway and bridge, from mainland to Galveston Island, across Galveston Bay, to connect, as part of the roadways of the county on the island and mainland and the county issue bonds for same on taxation; also establishing three-mile limit and condemnation proceedings and pro-

viding for the right of way; also to authorize all corporations contracting for right of way upon or use of said structure to issue and sell bonds therefor under the regulation and authority of the Railroad Commission; and to lease and authorize corporations and the city of Galveston to lease right of easement of user of portion of said structure from such county on terms provided by this act and agreed on with the county commissioners court, with an emergency clause,' approved March 16, 1907, being Chapter 26 of the Special Laws passed at the Regular Session of the Thirtieth Legislature, by adding thereto Sections 1a and 1b, authorizing the commissioners court of said county to issue, for the purpose mentioned in said act, bonds of the county bearing interest at a rate not exceeding 6 per cent per annum and to levy and collect an additional annual ad valorem tax to pay interest and create a sinking fund on said bonds, providing that a majority of the qualified property tax-paying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed 15 cents on the \$100 valuation of property subject to taxation in said county, and providing for the sale of such bonds, and for the cancellation or sale of bonds heretofore issued by said commissioners court under said act, and declaring an emergency."

And find it correctly enrolled, and have this day, at 3:07 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Committee Room,

Austin, Texas, September 1, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 2, and find it correctly enrolled, and have this day, at 3:07 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the bill in full:

An Act appropriating the sum of seven thousand dollars, or so much thereof as may be necessary, out of the public revenues not otherwise appropriated, to pay the contingent expenses of the Fourth Called Session of the Thirty-first Legislature of Texas, and declaring an emergency.

Be it enacted by the Thirty-first Legislature of Texas:

Section 1. That the sum of seven thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any public moneys not otherwise appropriated, to pay the contingent expenses of the Fourth Called Session of the Thirty-first Legislature of Texas, and that the approval of the chairman of the Committee on Contingent Expenses of either house, and countersigned by the President of the Senate, or the Speaker of the House of Representatives, as the case may be, shall be sufficient authority to authorize the Comptroller to issue his warrant on the State Treasurer for the payment of any account so drawn against said fund.

Sec. 2. The fact that there is no appropriation available for the payment of the contingent expenses of the Fourth Called Session of the Thirty-first Legislature of Texas, creates an emergency and an imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, September 1, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 6, and find it correctly enrolled, and have this day, at 11:52 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the bill in full:

An Act to amend Articles 4549 and 4550 of Chapter 11, Title 94 of the Revised Statutes of the State of Texas, and prescribe the conditions upon which the purchaser or purchasers, and associates, if any, of the property and franchises of a railroad company may become owners of its charter, or may organize a new corporation, and governing, regulating and limiting the stocks and bonds of the new corporation, and of the old corporation, after the sale of its property and franchises, and declaring an emergency.

Section 1. Be it enacted by the Legislature of the State of Texas: That Articles 4549 and 4550 of Chapter 11, Title 94 of the Revised Statutes of the

State of Texas be so amended as to hereafter read as follows:

Article 4549. In case of the sale of the property and franchises of a railroad company, whether by virtue of an execution, order of sale, deed of trust, or any other power, or by a receiver acting under judgments, heretofore or to be hereafter rendered by any court of competent jurisdiction, the purchaser or purchasers at such sale, and associates, if any, shall acquire full title to such property and franchises, with full power to maintain and operate the railroad and other property incident to it, under the restrictions imposed by law; provided, however, that said purchaser or purchasers, and associates, if any, shall not be deemed and taken to be the owners of the charter of the railroad company and corporations under the same, nor vested with the powers, rights, privileges and benefits of such charter ownership, as if they were the original incorporators of said company, unless the purchaser or purchasers, and associates, if any, shall agree to take and hold said property and franchises, charged with, and subject to the payment of, all subsisting liabilities and claims, for death and for personal injuries sustained in the operation of the railroad, by the company and by any receiver thereof, and for loss of, and damage to property, sustained in the operation of the railroad by the company and by any receiver thereof, and for the current expenses of such operation, including labor, supplies and repairs; provided, that all such subsisting claims and liabilities shall have accrued within two years prior to the beginning of the receivership resulting in the sale of said property and franchises, or within two years prior to the sale, if said property and franchises be sold otherwise than under receivership proceedings, unless suit was pending on such claims and liabilities when the receiver was appointed or when the sale was made, in which event claims and liabilities on which suits were so pending shall be protected hereby as though accruing within the two years; such agreement to be evidenced by an instrument in writing, signed and acknowledged by said purchaser or purchasers, and associates, if any, and filed in the office of the Secretary of State of the State of Texas; and, provided further, that such charter, together with the powers, rights, privileges and benefits thereof shall pass to said purchaser or purchasers, and associates, if any, subject to

the terms, provisions, restrictions and limitations imposed and to be imposed by law; and, provided further, that the amount of stock and bonds which may be held against said property and franchises, after the sale thereof, as well as the manner of issuance of such stock and bonds shall be fixed, determined and regulated by the Railroad Commission of Texas, at its discretion, save that the total encumbrance secured by lien on said property and franchises shall not exceed the amount allowed by Article 4584b of the Revised Statutes of Texas of 1895.

Article 4550. In case of any sale heretofore or hereafter made of the property and franchises of a railroad company, within this State, the purchaser or purchasers thereof, and associates, if any, shall be entitled to form a corporation, under Chapter 1 of Title 94 of the Revised Statutes of Texas for the purpose of acquiring, owning, maintaining and operating the road so purchased, as if such road were the road intended to be constructed by the corporation, and when such charter has been filed the new corporation shall have the powers and privileges then conferred by the laws of this State upon chartered railroads, including the power to construct and extend; provided that, notwithstanding such incorporation, the property and franchises so purchased shall be charged with and subject to the payment of all subsisting liabilities and claims, for death and personal injuries sustained in the operation of the railroad by the sold-out company and by any receiver thereof, and for loss of and damage to property, sustained in the operation of the railroad by the sold-out company and by any receiver thereof, and for the current expenses of such operation, including labor, supplies and repairs; provided, that all such subsisting claims and liabilities shall have accrued within two years prior to the beginning of the receivership resulting in the sale of such property and franchises, or within two years prior to the sale if said property and franchises be sold otherwise than under receivership proceedings, unless suit was pending on such claims and liabilities when the receiver was appointed or when the sale was made, in which event claims and liabilities on which suits were so pending shall be protected hereby as though accruing within the two years; and provided that, by such purchase and organization, no right shall be acquired in conflict with the present

Constitution and laws, in any respect, nor shall the main track of any railroad once constructed and operated be abandoned or removed; and, provided further, that the amount of stock and bonds which may be issued by said new corporation, as well as the manner of their issuance, shall be fixed, determined and regulated by the Railroad Commission of Texas, at its discretion, save that the total encumbrance secured by lien on said property and franchises shall not exceed the amount allowed by Article 4584b of the Revised Statutes of Texas of 1895.

Sec. 2. That this act shall not be construed to in anywise repeal or impair the provisions of Chapter 14, Title 94 of the Revised Statutes of the State of Texas, except in so far as the same may be changed by the provisions of this act.

Sec. 3. Whereas, there is no provision in the laws of this State for any return from purchasers of railroad properties for valuable privileges and no adequate regulation of stocks and bonds against sold-out railroad properties, there exists an imperative public necessity and emergency for the suspension of the rule requiring bills to be read on three several days in each house, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is hereby so enacted.

Committee Room,

Austin, Texas, September 1, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 4, and find it correctly enrolled, and have this day, at 5:10 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the bill in full:

An Act to require persons, corporations, or receivers, engaged in constructing or repairing railroad cars, trucks or other railroad equipment to erect and maintain buildings or sheds for the protection from rain, wind or other inclement weather employes engaged in constructing or repairing railroad cars, trucks and other railroad equipment, and providing penalties for the violation of this act, and regulating penalties, and repealing Chapter 53, Acts of the Thirty-first Legislature of the State of Texas, entitled

"An Act to require all railroad companies doing business in this State to provide suitable premises and shelter for the protection from the weather of their employes while engaged in labor in the service of said railroad companies," and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That every person, corporation or receiver engaged in constructing or repairing railroad cars, trucks or other railroad equipment shall erect and maintain a building or shed at every station or other point where as many as five men are regularly employed on such repair work, the building or shed to cover a sufficient portion of its track so as to provide that all men regularly employed in the construction and repair of cars, trucks, or other railroad equipment, shall be sheltered from rain and protected from other inclement weather.

The provisions of this act shall not apply at points where less than five men are regularly employed in the repair service, nor at division terminals or other points where it is necessary to make light repairs only on cars, nor to cars loaded with time or perishable freight, nor to cars when trains are being held for the movement of said cars.

Sec. 2. Any person, corporation or receiver who shall violate the provisions of this act shall be liable to the State of Texas for a penalty in any sum not less than \$50 nor more than \$100, and each ten days of such failure or refusal to comply with the provisions of this act shall be considered a separate infraction authorizing the recovery of a separate penalty.

Suit for recovery of penalties hereunder shall be brought by the Attorney General of this State or by the county or district attorney of the county in which suit is brought, and the county or district attorney, as the case may be, shall receive a fee of ten per cent (10%) upon each penalty recovered and collected by him in addition to the fee allowed him by law at this time, and said fee shall be over and above the fee allowed him by law at this time, and said fee shall be over and above the fees allowed under the general fee act in force in this State.

Sec. 3. That Chapter 53 of the Acts of the Regular Session of the Thirty-first Legislature, entitled "An Act to require all railroad companies doing business in this State to provide suit-

able premises and shelter for the protection from the weather of their employes while engaged in labor in the service of said railroad companies," be and the same is hereby repealed; that this act shall take effect ninety days after the adjournment of this Special Session; but that all persons, corporations or receivers affected by this act shall have until June 1, 1911, within which to comply with the provisions thereof.

Sec. 4. The importance of the legislation proposed in this bill and the probable early adjournment of the present session of the Legislature, rendering it improbable that this bill can be read on three several days in each house, creates an emergency and an imperative public necessity exists requiring the constitutional rule requiring bills to be read on three several days in each house be suspended, and said rule is hereby suspended, and it is so enacted.

THIRTEENTH DAY.

Senate Chamber,
Austin, Texas,

Friday, September 2, 1910.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum being present, the following Senators answering to their names:

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Ratliff.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Terrell of Wise.
Kauffman.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	
	Absent.

Willacy.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Mayfield, the same was dispensed with.

(See Appendix for petitions, memorials and committee reports.)